

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

RICHARD MILLS,

Plaintiff,

v.

DECISION AND ORDER
11-CV-383

GENESEE COUNTY, et al.,

Defendants.

The instant matter was referred to Magistrate Judge Jeremiah J. McCarthy pursuant to 42 U.S.C. §636(b)(1) for supervision of all pre-trial proceedings. On December 14, 2012, the Genesee County defendants moved, pursuant to Federal Rule of Civil Procedure 11, for dismissal of the action and other sanctions based upon plaintiff's intentional misrepresentations to the Court, filing of frivolous claims, and other bad faith conduct. (Dkt. No. 129) Plaintiff, who is proceeding *pro se*, has made a motion to amend his complaint. (Dkt. No. 137)

Following an evidentiary hearing and post-hearing submissions, Magistrate Judge McCarthy found that there was clear and convincing evidence to establish that plaintiff repeatedly lied to the Court concerning authorship of a letter to his former wife, defendant Judy Mills. On September 19, 2013, Magistrate Judge McCarthy issued a Report and Recommendation setting forth these findings and recommending that: (1) plaintiff's motion to amend his complaint be dismissed; and (2) that plaintiff's complaint be dismissed in its entirety pursuant to Federal

Rule of Civil Procedure 11(c) and the Court's inherent authority, as a sanction for plaintiff's repeated misrepresentations to the Court. (Dkt. No. 168)

On September 2, 2013, plaintiff filed objections to the Report and Recommendation. (Dkt. No. 169) All defendants filed responses. (Dkt. Nos. 170, 172, and 173) Plaintiff filed a reply (Dkt. No. 175), and a sur-reply was filed by the Monroe County defendants on October 30, 2013. (Dkt. No. 174) The Court then deemed the matter submitted.

Pursuant to 28 U.S.C. §636(b)(1), this Court must make a *de novo* determination of those portions of the Report and Recommendation to which objections have been made. Upon a *de novo* review, and after reviewing the submissions from the parties, the Court hereby adopts Magistrate Judge McCarthy's findings in their entirety.

Accordingly, for the reasons set forth in Magistrate Judge McCarthy's Report and Recommendation, plaintiff's motion to amend his complaint is denied and the complaint is dismissed in its entirety and on the merits pursuant to Federal Rule of Civil Procedure 11(c). The Clerk of the Court is directed to close the case.

SO ORDERED.

s/ Richard J. Arcara

HONORABLE RICHARD J. ARCARA
UNITED STATES DISTRICT JUDGE

DATED: January 8, 2014